

HOWARD L. KIRLEY

IBLA 81-546

Decided June 9, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claims CA MC 59692 and CA MC 67679 through CA MC 67683 abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Howard L. Kirley, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Howard L. Kirley has written to the California State Office, Bureau of Land Management (BLM), protesting that office's March 3, 1981, decision declaring lode mining claims White Star Nos. 1 through 4, Vista Claim (1 through 8 association), and White Star Annex (CA MC 59692 and CA MC 67679 through 67683), abandoned and void for failure to file evidence of assessment work for the period September 1, 1979, to September 1, 1980, with BLM by December 30, 1980, and for failure to file copies of original location notices for any of the claims. BLM has treated Kirley's letter, dated March 23, 1981, as an appeal to this Board.

The essence of Kirley's protest is that he has done assessment work for 32 years on the White Star Nos. 1 through 4 and White Star Annex claims, and that location notices, surveys, and plats, as well as proof of assessment work, were duly recorded in the Hall of Records in

Bakersfield, California. Kirley says that assessment work was also done in 1979 and 1980 and that he thinks it was recorded, but that he may have slipped up because of the illness of his wife.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), and its implementing regulations, 43 CFR 3833.1-2, 3833.2-1(a), and 3833.4, require that location notices of claims on Federal lands and evidence of annual assessment work be filed in the proper BLM office within specified time limits. For claims located before October 21, 1976, the required instruments must be filed on or before October 22, 1979, under penalty of a conclusive presumption that the claims have been abandoned if the documents are not timely or properly filed. Evidence of assessment work for each assessment year or notice of intention to hold for unpatented mining claims must be filed by December 30 of each year thereafter. 43 U.S.C. § 1744(a) (1976); 43 CFR 3833.2-1(a). The filing of such instruments with the State or county does not satisfy this requirement.

Although it seems likely that Kirley did not fully appreciate the effect of FLPMA on his apparently longstanding claims, his lack of knowledge of the statute and of the Department's implementing regulations does not constitute a legal basis for ignoring them. The responsibility for complying with the requirements of Federal law with respect to claims located on Federal lands must rest with the claimant.

Moreover, all persons dealing with the Government are presumed to have knowledge of relevant and duly promulgated statutes and regulations. John Plutt, Jr., 53 IBLA 313 (1981); Paula Troester Saragoza, 53 IBLA 247 (1981). See also Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

Kirley did not file the necessary location notices. Although proof of labor was filed timely for the assessment year ending September 1, 1979, nothing was filed with respect to the following assessment year by December 30, 1980. Therefore, BLM had no choice but to declare his claims abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the California State Office is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

C. Randall Grant, Jr.
Acting Administrative Judge

